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SENATE BILL 866

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING THAT SUNDAY SALES FOR CONSUMPTION ON LICENSED PREMISES MAY BEGIN AT 11:00 A. M. ; INCREASING THE SUNDAY SALES PERMIT FEE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-7A-1 NMSA 1978 (being Laws 1981, Chapter 39, Section 47, as amended) is amended to read:

"60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES-- CHRISTMAS DAY SALES--SUNDAY SALES FOR CONSUMPTION OFF THE LICENSED PREMISES-- ELECTIONS. --

A. Alcoholic beverages shall be sold, served and consumed on licensed premises only during the following hours and days:

- (1) on Mondays from 7:00 a.m. until midnight;
- (2) on other weekdays from after midnight of

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1 the previous day until 2:00 a.m., then from 7:00 a.m. until
2 midnight, except as provided in Subsections D and F of this
3 section; and

4 (3) on Sundays only after midnight of the
5 previous day until 2:00 a.m., except as provided in
6 Subsections C and E of this section and Section 60-7A-2 NMSA
7 1978; provided, however, nothing in this section shall
8 prohibit the consumption at any time of alcoholic beverages in
9 guest rooms of hotels.

10 B. Alcoholic beverages shall be sold by a
11 dispenser or a retailer in unbroken packages, for consumption
12 off the licensed premises and not for resale, on Mondays
13 through Saturdays from 7:00 a.m. until 12:00 a.m. on the
14 following day, except as provided in Subsections D and F of
15 this section.

16 C. A dispenser, restaurant licensee or club may,
17 upon payment of an additional fee of [~~one hundred dollars~~
18 ~~(\$100)~~] one hundred fifty dollars (\$150), obtain a permit to
19 sell, serve or permit the consumption of alcoholic beverages
20 by the drink on the licensed premises on Sundays from [~~12:00~~
21 ~~noon~~] 11:00 a.m. until midnight and in those years when
22 December 31 falls on a Sunday from [~~12:00 noon~~] 11:00 a.m.
23 until 2:00 a.m. of the following day, except as otherwise
24 provided in Subsection E of this section. The permit shall
25 expire on June 30 of each year and may be renewed from year to

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1 year upon application for renewal and payment of the required
2 fee. The permit fee shall not be prorated. Sales made
3 pursuant to this subsection or Subsection G of this section
4 shall be called "Sunday sales".

5 D. Retailers, dispensers, canopy licensees that
6 were replaced by dispenser's licensees pursuant to Section
7 60-6B-16 NMSA 1978, restaurant licensees, club licensees and
8 governmental licensees or their lessees shall not sell, serve,
9 deliver or allow the consumption of alcoholic beverages on the
10 licensed premises from 2:00 a.m. on Christmas day until 7:00
11 a.m. on the day after Christmas, except as permitted pursuant
12 to Subsection F of this section.

13 E. Sunday sales pursuant to the provisions of
14 Subsection C of this section are permitted in a local option
15 district that voted to permit them. If in that election a
16 majority of the voters in a local option district voted "no"
17 on the question "Shall Sunday sales of alcoholic beverages by
18 the drink for consumption on the licensed premises of
19 licensees be allowed in this local option district?", Sunday
20 sales are unlawful in that local option district upon
21 certification of the election returns unless the provisions of
22 Subsection J of this section apply. The question shall not
23 again be placed on the ballot in that local option district
24 until:

- 25 (1) at least one year has passed; and

1 (2) a petition is filed with the local
2 governing body bearing the signatures of registered qualified
3 electors of the local option district equal in number to ten
4 percent of the number of votes cast and counted in the local
5 option district for governor in the last preceding general
6 election in which a governor was elected. The signatures on
7 the petition shall be verified by the clerk of the county in
8 which the local option district is situated.

9 F. On and after July 1, 2002, dispensers, canopy
10 licensees that were replaced by dispenser's licensees pursuant
11 to Section 60-6B-16 NMSA 1978, restaurant licensees, club
12 licensees and governmental licensees or lessees of these
13 licensees; provided that the licensees have current, valid
14 food service establishment permits, may sell, serve or allow
15 the consumption of alcoholic beverages by the drink on
16 licensed premises from noon until 10:00 p.m. on Christmas day,
17 except in a local option district in which, pursuant to
18 petition and election under this subsection, [~~a~~] the majority
19 of the voters voting on the question [~~votes~~] vote against
20 continuing such sales or consumption on Christmas day. An
21 election shall be held on the question of whether to continue
22 to allow the sale, service or consumption of alcoholic
23 beverages by the drink on licensed premises from noon until
24 10:00 p.m. on Christmas day in a local option district if a
25 petition requesting the governing body of that district to

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1 call the election is signed by at least ten percent of the
2 registered voters of the district and is filed with the clerk
3 of the governing body of the district. Upon verification by
4 the clerk that the petition contains the required number of
5 signatures of registered voters, the governing body shall
6 adopt a resolution calling an election on the question of
7 allowing the sale, service or consumption of alcoholic
8 beverages by the drink on licensed premises from noon until
9 10:00 p. m. on Christmas day. The election shall be held
10 within sixty days after the date the petition is verified, or
11 it may be held in conjunction with a regular election of the
12 governing body if that election occurs within sixty days of
13 such verification. The election shall be called, conducted,
14 counted and canvassed in substantially the same manner as
15 provided for general elections in the county under the
16 Election Code or for special municipal elections in a
17 municipality under the Municipal Election Code. If [a] the
18 majority of the voters voting on the question [~~votes~~] vote
19 against continuing the sale, service or consumption of
20 alcoholic beverages by the drink on licensed premises from
21 noon until 10:00 p. m. on Christmas day, then such sales and
22 consumption shall be prohibited. If [a] the majority of the
23 voters voting on the question [~~votes~~] vote to allow continued
24 sale, service and consumption of alcoholic beverages by the
25 drink on licensed premises from noon until 10:00 p. m. on

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1 Christmas day, then such sales and consumption shall be
2 allowed to continue. The question then shall not be submitted
3 again to the voters within two years of the date of the last
4 election on the question.

5 G. Notwithstanding the provisions of Subsection E
6 of this section, any Indian tribe or pueblo whose lands are
7 wholly situated within the state that has, by statute,
8 ordinance or resolution, elected to permit the sale,
9 possession or consumption of alcoholic beverages on lands
10 within the territorial boundaries of the tribe or pueblo may,
11 by statute, ordinance or resolution of the governing body of
12 the Indian tribe or pueblo, permit Sunday sales by the drink
13 on the licensed premises of licensees on lands within the
14 territorial boundaries of the tribe or pueblo; provided that a
15 certified copy of such enactment is filed with the office of
16 the director and ~~[of]~~ with the secretary of state.

17 H. Subject to the provisions of Subsection I of
18 this section, a dispenser or retailer, upon payment of an
19 additional fee of one hundred dollars (\$100), may obtain a
20 permit to sell alcoholic beverages in unbroken packages for
21 consumption off the licensed premises on Sundays from 12:00
22 noon until midnight, and in those years when December 31 falls
23 on a Sunday, from 12:00 noon on December 31 until 2:00 a.m. of
24 the following day. The permit shall expire on June 30 of each
25 year and may be renewed from year to year upon application for

1 renewal and payment of the required fee. The permit fee shall
2 not be prorated. Sales made pursuant to the provisions of
3 this subsection shall be called "Sunday package sales".

4 I. If a petition requesting the governing body of
5 a local option district to call an election on the question of
6 continuing to allow sales of alcoholic beverages in unbroken
7 packages for consumption off the licensed premises on Sundays
8 is filed with the clerk of the governing body and that
9 petition is signed by at least ten percent of the number of
10 registered voters of the local option district and the clerk
11 of the governing body verifies the petition signatures, the
12 governing body shall adopt a resolution calling an election on
13 the question. The election shall be held within sixty days of
14 the date the petition is verified, or it may be held in
15 conjunction with a regular election of the governing body if
16 the regular election occurs within sixty days of the petition
17 verification. The election shall be called, conducted,
18 counted and canvassed substantially in the manner provided by
19 law for general elections within a county or special municipal
20 elections within a municipality. If [a] the majority of the
21 voters of the local option district voting in the election
22 [~~votes~~] vote to allow the sale of alcoholic beverages in
23 unbroken packages for consumption off the licensed premises,
24 then those sales shall continue to be allowed. If [a] the
25 majority of the voters of the local option district voting in

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1 the election [~~votes~~] vote not to allow the Sunday package
2 sales, then those Sunday package sales shall be prohibited
3 commencing the first Sunday after the results of the election
4 are certified. Following the election, the question of
5 allowing the Sunday package sales shall not be submitted again
6 to the voters within two years of the date of the last
7 election on the question.

8 J. Sunday sales of alcoholic beverages shall be
9 permitted at resorts and at horse racetracks statewide
10 pursuant to the provisions of Section 60-7A-2 NMSA 1978. "